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15 Deborah Roche

16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA

18 Deborah Roche,

19 Plaintiff,

20 vs.

21 Facebook, Inc.,

22 Defendant.

Case No.: 3:15-cv-05147

**COMPLAINT FOR DAMAGES**

**FOR VIOLATIONS OF:**

**1. THE TELEPHONE CONSUMER  
PROTECTION ACT**

**JURY TRIAL DEMANDED**

1 Plaintiff, Deborah Roche (hereafter “Plaintiff”), by undersigned counsel, brings  
2 the following complaint against Facebook, Inc. (hereafter “Defendant”) and alleges as  
3 follows:  
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the  
7 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).  
8

9 2. Jurisdiction of this Court arises under 47 U.S.C. § 227(b)(3) and 28  
10 U.S.C. § 1331.  
11

12 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where  
13 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or  
14 where Defendant transacts business in this district.  
15

16 **PARTIES**

17 4. Plaintiff is an adult individual residing in Merritt Island, Florida, and is a  
18 “person” as defined by 47 U.S.C. § 153(39).  
19

20 5. Defendant is a business entity located in Menlo Park, California, and is a  
21 “person” as the term is defined by 47 U.S.C. § 153(39).  
22

23 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

24 6. At all times mentioned herein where Defendant communicated with any  
25 person via telephone, such communication was done via Defendant’s agent,  
26 representative or employee.  
27  
28

1           7.     At all times mentioned herein, Plaintiff utilized a cellular telephone  
2 service and was assigned the following telephone number: 321-XXX-7255 (hereafter  
3 “Number”).  
4

5           8.     Within the past two years, Defendant excessively sent text messages to  
6 Plaintiff’s Number in an attempt to solicit Plaintiff’s patronage.  
7

8           9.     Upon information and belief, the aforementioned text messages were  
9 placed using an automatic telephone dialing system (“ATDS”).  
10

11          10.    Defendant’s texts are seemingly intended to invite Plaintiff to visit  
12 Defendant’s website and sign up for its service.  
13

14          11.    The texts were repetitive and similar in design, as the excerpts below  
15 reveal:

16                   “There are 9 people you may know on Facebook. Send  
17 them a friend request.”

18                   “Debbe, you have 1 new notification on Facebook.”

19                   “There are 8 people you may know on Facebook. Send  
20 them a friend request.”

21                   “Over 150 million people have used the Facebook friend  
22 finder. Find the people you care about.”

23                   “What are you up to? Reply with a status update to post  
24 to Facebook or go to . . .”

25          12.    Defendant bombarded Plaintiff’s Number with these unwanted and  
26 annoying texts at various times throughout any given day, sometimes as early as  
27 3:20am.  
28



1 Plaintiff's Number for the purpose of advertising or telemarketing absent Plaintiff's  
2 prior express written consent. *See* 47 C.F.R. § 64.1200(a)(2).  
3

4 21. FCC regulations promulgated under the TCPA require that Plaintiff's  
5 consent be pursuant to a written agreement, signed by the Plaintiff, which contains  
6 Plaintiff's unambiguous assent to receiving ATDS and/or Robocalls from Defendant.  
7  
8 *See* 47 C.F.R. § 64.1200(f)(8).

9 22. Defendant texted Plaintiff's Number using an ATDS without Plaintiff's  
10 consent in that Defendant either never had Plaintiff's prior express consent to do so or  
11 such consent was effectively revoked when Plaintiff requested that Defendant cease  
12 all further text messages.  
13

14 23. Defendant continued to willfully text Plaintiff's Number using an ATDS  
15 knowing that it lacked the requisite consent to do so in violation of the TCPA.  
16

17 24. Plaintiff was harmed and suffered damages as a result of Defendant's  
18 actions.  
19

20 25. The TCPA creates a private right of action against persons who violate  
21 the Act. *See* 47 U.S.C. § 227(b)(3).  
22

23 26. As a result of each text made in violation of the TCPA, Plaintiff is  
24 entitled to an award of \$500.00 in statutory damages.  
25

26 27. As a result of each text made knowingly and/or willingly in violation of  
27 the TCPA, Plaintiff may be entitled to an award of treble damages.  
28

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- A. Statutory damages of \$500.00 for each call determined to be in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3);
- B. Treble damages for each violation determined to be willful and/or knowing under the TCPA pursuant to 47 U.S.C. § 227(b)(3);
- C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

DATED: November 9, 2015

TRINETTE G. KENT

By: /s/ Trinette G. Kent  
Trinette G. Kent, Esq.  
Lemberg Law, LLC  
Attorney for Plaintiff, Deborah Roche